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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,962	02/28/2000	Scott A McDermott	AA-990915	9064
23662	7590	09/14/2004	EXAMINER	
ROBERT M. MCDERMOTT, ESQ. 1824 FEDERAL FARM ROAD MONTROSS, VA 22520			FAN, CHIEH M	
			ART UNIT	PAPER NUMBER
			2634	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/513,962

Applicant(s)

MCDERMOTT ET AL.

Examiner

Chieh M Fan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-10 and 14-20 is/are allowed.
- 6) ☒ Claim(s) 11,12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/28/00 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's arguments, see pages 7-9 of the response, filed 8/9/04, with respect to the rejection(s) of claim(s) 11 under 35 USC 102(e) over Kamgar et al. have been fully considered and are persuasive. Therefore, the final rejection of the last Office action has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Abramson (U.S. Patent No. 6,151,313).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Abramson (U.S. Patent No. 6,151,313).

Abramson discloses a communications system comprising:

a plurality of transmitters that are configured to communicate messages to a receiver, each transmitter of the plurality of transmitters being configured to operate substantially autonomously, and independent of the receiver, and each transmitter

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being configured to communicate its message to the receiver using substantially identical transmission parameters as each other transmitter, including using a common spreading-code within a common communications channel (lines 1-3 of claim 1 or lines 1-6 of claim 6), and

wherein each message has an associated code-phase that is independent of the receiver, and independent of each other message (col. 3, lines 11-12; that is, the transmitters are independent), thereby facilitating a discrimination of the messages at the receiver based on different code-phases associated with different messages (last 4 lines of the abstract).

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abramson (U.S. Patent No. 6,151,313) in view of Secord et al. (U.S. Patent No. 6,373,831, "Secord" hereinafter).

Abramson teaches the claimed invention (see the rationale applied to claim 11 above), but does not specifically teach that the each message contains an error correction code.

However, the use of an error correction code is well known in the art to improve the quality and reliability of communication. Secord teaches a spread spectrum system comprises an error correction encoder (10 in Fig. 1) to encode the message before spreading and transmitting the message. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the error correction encoder of Secord in place of the encoder of Abramson, so as to improve the quality and reliability of communication.

### ***Allowable Subject Matter***

6. Claims 2-10 and 14-20 are allowed.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chieh M Fan whose telephone number is (571) 272-3042. The examiner can normally be reached on Monday-Friday 8:00AM-5:30PM, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chieh M Fan  
Primary Examiner  
Art Unit 2634

Cmf  
September 8, 2004